

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19968
[REDACTED],)	
)	DECISION
Taxpayer.)	
_____)	

On December 1, 2006, the staff of the Sales Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Refund Determination to [Redacted] (taxpayer) denying a claim for use tax paid for the period of September 1, 2006, through September 30, 2006, in the total amount of \$8,750.

On January 10, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing with the Tax Commission, and no hearing has been held.

On April 20, 2006, the taxpayer purchased a [Redacted] boat from a seller [Redacted]. The boat is large enough to be a vessel documented by the United States Coast Guard and is, therefore, exempt from state registration requirements. On September 7, 2006, the Commission sent a letter to the taxpayer stating that information received from the [Redacted] Department of Revenue indicated that the taxpayer claimed an exemption from [Redacted] sales tax and did not pay tax to the seller. The letter asked that the taxpayer either send \$8,750 in use tax or explain why no tax was due. The taxpayer responded to this letter on September 12, 2006, by sending a check for the amount of tax in full.

The taxpayer's protest letter stated that the tax was paid in error and the vessel was purchased for resale. The taxpayer did not respond to the hearing rights letter. In July of 2007, one of the taxpayer's employees called the Commission and said she would send more information on the boat, which the taxpayer still owned at that time.

On November 2, 2007, the Commission sent a letter asking whether the taxpayer wanted to send any more information. The letter stated that if the taxpayer did not respond by November 23, 2007, the Commission would issue a decision based on the information upon the record as it now stands.

According to the Coast Guard's database, the vessel [Redacted] is classified as a recreational vessel, and is still owned by the taxpayer. [Redacted]. [Redacted]. The taxpayer has owned the vessel [Redacted], which is longer than a reasonably prudent business would hold such a boat in inventory.

Idaho Code § 63-3621 imposes a use tax at the rate of 6 percent of the sales price of tangible personal property stored, used, or otherwise consumed in Idaho. The tax is due unless the purchaser pays sales tax to the vendor or an exemption applies. The taxpayer has not shown that any exemption applies in this case. A determination of the State Tax Commission is presumed to be correct. *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). The burden is on the petitioner to show that the deficiency is erroneous. *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The taxpayer has not met that burden in this case.

WHEREFORE, the Notice of Refund Determination dated December 1, 2006, is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.